

IN THE UNITED STATES DISTRICT COURT
THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

Caterpillar Financial Services Corporation,)
)
) Case No. 3:10-cv-0420
Plaintiff,)
)
) Judge Nixon
v.) Magistrate Judge Griffin
)
Terra Excavating, Inc., et al.,)
)
)
Defendants.)

ENTRY OF DEFAULT IN PART

Pending is Plaintiff's Motion for Entry of Default against Defendants (Docket Entry 9).

It appears that service has been made upon the Defendants and returns of service have been filed with the Court (Docket Entries 5-8). Defendants have not responded to the Complaint against them. However, the request for entry of default against Defendants Mohammad Hikman Rahman and Mohammad Adnan Rahman must be denied. The request as to those Defendants is not supported with appropriate affidavits of military service as required by the Servicemembers Civil Relief Act of 2003 (50 App. U.S.C. 501 et seq.). The Act requires that affidavits be submitted that "state whether or not the Defendant is in military service and **showing facts necessary to support the affidavit**" (emphasis added). Information on the military status of an individual can be obtained at the Department of Defense website at <https://www.dmdc.osd.mil/appj/scra/scraHome.do>. That website provides an on-line search utility (SSN required) as well as a help button link that provides information on where requests for information can be sent (no SSN required) to determine whether a particular individual is on active duty in the military. Alternatively, a sworn statement or declaration

from the Defendants or someone in a position to know the military status of the individuals could be accepted. Other factors, such as the age of Defendants if beyond the age for service can be considered.

Accordingly, for the reasons stated above, the Clerk declines to enter default against Defendants Mohammad Hikman Rahman and Mohammad Adnan Rahman at this time. Plaintiff may file a renewed request for entry of default against those Defendants pursuant to FRCP 55(a) when affidavits of military service have been prepared.

The Clerk will enter default against Defendants Terra Excavating, Inc. and Terra Construction Group, Inc. These Defendants are corporations and not subject to military service. Accordingly, default is hereby entered against Terra Excavating, Inc. and Terra Construction Group, Inc. pursuant to Federal Rule of Civil Procedure 55(a).

s/ Keith Throckmorton

Keith Throckmorton
Clerk of Court